Site G Referral

R-19J

Lois J. Schiffer
Assistant Attorney General
Environment & Natural Resources Division
U.S. Department of Justice
9th & Constitution Ave., N.W., Rm. 2143
Washington, D.C. 20530

Re: United States v Monsanto Chemical Company, et al., Referral of CERCLA Civil Case Regarding Sauget Area 1, Site G, Sauget/Cahokia, Illinois

Dear Ms. Schiffer:

Enclosed is the Litigation Report for Sauget Area 1, Site G ("the Site"), in Sauget, St. Clair County, Illinois. I concur with the conclusions contained therein and request that you file a complaint on behalf of the United States as recommended in the report.

The Site was a hazardous subsurface/surface disposal area that accepted waste from approximately 1952 until 1966. Since August 1984, the United States Environmental Protection Agency ("U.S. EPA") has incurred costs in conducting response actions at the site. U.S. EPA has incurred costs in sampling and investigating the Site to assess the extent of contamination, and in its 1995 removal action. U.S. EPA has incurred approximately _____ in unreimbursed response costs.

U.S. EPA proposes naming Sauget and Company, Paul Sauget, Monsanto Chemical Company, (now Solutia, Inc)., Cerro Copper Products Company, Weise Engineering, Moto, Inc., and Mobil Oil Company in this case. Please be aware that demobilization at this Site occurred on August 7, 1995. Thus, the statute of limitations for this cost recovery will expire on August 7, 1998.

The enclosed report identifies recommended defendants and witnesses. Evidence supporting the recommendation that a complaint be filed is provided in documents enclosed as part of the referral package.

If you have any questions concerning the enclosed, please contact Thomas J. Martin, Associate Regional Counsel, at (312) 886-4273, with legal questions, and Samuel Borries, On-Scene Coordinator, at (312) 353-2886, with technical questions.

Sincerely yours,

David A. Ullrich
Acting Regional Administrator

Enclosures

cc: W. Charles Grace, United States Attorney, Southern District of Illinois (with Enclosures)
Alan Tenenbaum, Acting Assistant Section Chief, United States Department of Justice (with Enclosures)
Steven Herman, Assistant Administrator for Enforcement and Compliance Assurance (with Enclosures)
Barry Breen, Director, Office of Site Remediation Enforcement (with Enclosures)

bcc: Cheryl Klebenow, ORC (w/o enclosures)
Evison
Borries

CONCURRENCE SIGN-OFF FOR THE OFFICE OF REGIONAL COUNSEL									
	Aut.	Sec. Secy.	Sec. Chief	Br. Secy.	Branch Chief	Cheryl/ Darlene	Dep. Reg. Coun	Reg. Coun	Other
Init									
Date									

THOMAS J. MARTIN/rp:886-4273 (C-14J):LTR from ULLRICH TO SCHIFFER, Re: United States v Monsanto Chemical Company, et al., Referral of CERCLA Civil Case Regarding Sauget Area 1, Site G, Sauget/Cahokia, Illinois (3/19/98)

ENFORCEMENT CONFIDENTIAL

LITIGATION REFERRAL COVER PAGE

REGION: 5

COURT: United States District Court for the Southern District of Illinois

ACT: CERCLA Section 107

SITE NAME: Sauget Area 1, Site G
St. Clair County, Illinois

EPA I.D. NO.: ILD 981 953 623 (CERCLIS Id. No.)

PROPOSED DEFENDANTS: **Industrial Salvage and Disposal Company/**
Sauget & Company
Paul Sauget
Monsanto Chemical Co./Solutia, Inc.
Mobil Oil Co.
Cerro Copper Products Company
Harold Weise
Moto, Inc.

REGIONAL CONTACTS:

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DEPARTMENT OF JUSTICE:

Robert T. Lee
Trial Attorney

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1.0 SYNOPSIS OF THE CASE

This referral requests initiation of litigation to recover response costs incurred in connection with the 1995 removal action at Sauget Area 1, Site G (Site). The removal action included assessing activities, consolidating contaminated soil and waste from on(and off) the site, solidifying oil and other liquid wastes and placing a temporary soil cover over the landfill. This work was performed as a fund lead removal action by the United States Environmetal Protection Agency (EPA) and government contractors pursuant to Section 106(a) of CERCLA. EPA approved a fund lead removal action to address the release or threatened release of hazardous substances into the environment caused by the presence of contamination at the site's surface and due to air emissions and releases associated with spontaneous combustion of wastes at the site.

Site G is one of twelve suspected uncontrolled hazardous waste sites in the Sauget/Cahokia area which have been subject to historic waste dumping activities by Sauget Area industries (see Attachment A, Sauget Area 1 Map). The Site is located next to a body of water aptly named Dead Creek, which also has served a historic repository of Sauget area wastes. Due to the pollution present there, Site G over the years has been subject to episodes of spontaneous combustion. The site was fenced to prevent access in 1988 by three PRPs, Monsanto Chemical Company (now Solutia, Inc.), Cerro Copper Products Comany, and Weise Engineering.

In 1994, the site spontaneously combusted on more than one occasion. Local firefighters flooded the site with water to attempt to put out the fires. This action had the effect of

spreading the contamination off the site and into Dead Creek via the water run-off. Additionally, government assessment efforts documented that the combustion of Site G chlorinated wastes, namely PCBs, resulted in dioxin and furan formation (see Attachment B, ATSDR Health Report). Dioxins are among the most toxic substances known to man. It was at this time that EPA documented the need for removal activities at Site G (see Attachment C, Action Memorandum). Efforts to reach agreement with PRPs (Monsanto, **Cerro Copper, and Weise Engineering**) on the terms of a removal action Order on Consent failed and EPA initiated a time critical removal action on March 20, 1995. The removal action was completed and the removal action team demobilized in August 7, 1995 (see Attachment D, Site POLREPs).

2.0 SIGNIFICANCE OF REFERRAL

There are viable PRPs that should be pursued for the recovery of EPA's response costs so that the Superfund can be reimbursed and the funds made available to clean up other hazardous waste sites. The Sauget Area Sites are part of the Gateway Geographic Initiative Area, a geographic region where significant resources are directed to address severe contamination. The Gateway Area includes East St. Louis, Sauget, Granite City, Belleville and surrounding areas.

Sauget Area One Site G is closely connected with the other Sauget Area Sites. Specifically, the principal generator of the wastes found at Site G (particularly Monsanto (now Solutia)) has liability at other Sauget Sites. **The linkage between these sites and Monsanto is evidenced primarily by the presence at each of high levels of chlorobenzene, chlorophenols, chloroanilines and**

PCBs. Additionally, Leo (now deceased) and his son Paul Sauget and their now dissolved corporation Sauget & Company **owned and/or** operated several landfills, including G, in the area and also hauled for local businesses. A judgment against Monsanto and Paul Sauget would create a favorable precedent for other Sauget Area Sites.

3.0 STATUTORY BASIS OF REFERRAL/LEGAL THEORY OF CASE

EPA's authority to bring a cost recovery action is based upon Section 107(a), 42 U.S.C. § 9607(a), of CERCLA which provides:

> Notwithstanding any other provisions or rule of law, and subject only to the defenses set forth in subsection (b) of this Section -
>
> (1) the owner and operator of a vessel or a facility,
>
> (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of,
>
> (3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances. . . shall be liable for -
>
> (A) all costs of removal or remedial action incurred by the United States Government . . . not inconsistent with the national contingency plan; . . .

Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), defines the term "facility" as:

> (9) The term 'facility' means (A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works) well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (B) any site or area where a

> hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

EPA's authority to respond to the conditions which were present at the Site is provided in Section 104(a)(1), 42 U.S.C. § 9604(a)(1), which states:

> Whenever (A) any hazardous substance is released or there is a substantial threat of such release into the environment, or (B) there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, the President is authorized to act, consistent with the national contingency plan, to remove or arrange for the removal of, and provide for remedial actions relating to such hazardous substance, pollutant, or contaminant at any time (including its removal from any contaminated natural resource), or take any other response measure consistent with the national contingency plan which the President deems necessary to protect the public health or welfare or the environment.[1]

The United States District Court for the Southern District of Illinois has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 9613. The claim to be asserted arises from property located in the district and the release and threatened release of hazardous substances occurred in this district. Venue is therefore proper in the district pursuant to 42 U.S.C. § 9613(b).

4.0 DESCRIPTION AND HISTORY OF THE SITE

The Sauget Area Sites are located in west-central St. Clair County, Illinois, directly across the Mississippi River from St. Louis, Missouri. The Sauget Area Sites consist of a number of former municipal and industrial waste landfills; surface

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[1] This authority has been delegated to the U.S. EPA Administrator by Executive Order 12580 and re-delegated to U.S. EPA Regional Administrators by U.S. EPA delegation 14-6.

impoundments or lagoons; surface disposal areas; and past excavations thought to be filled or partially filled with hazardous and solid wastes. The Sauget Area Sites are grouped into geographic categories: Sauget Area 1 and Sauget Area 2. Sauget Area 1 comprises the Dead Creek segments A through F and adjacent landfill sites **G, H, I, L, M and N**. Sauget Area 2 comprises landfill sites O-S (see Attachment E, Areas I and II Map). The Sauget Area 2 sites are located in closer proximity to the Mississippi River and are generally the more recently filled landfills (see Attachment F, Landfill Chronology).

This cost recovery referral documents the case for cost recovery for stabilization measures taken at Sauget Area 1, Site G. A cost recovery referral relating to a different but related site, Sauget Area 2 Site Q, was referred on February 23, 1997.

Site G is roughly a 5-acre disposal area located in Sauget, Illinois, which was operated **by Mr. Leo Sauget (now deceased),** from approximately 1952 until **1966.** The site is bordered by Queeny Avenue to the north, Dead Creek to the east, a cultivated field to the south, and by Wiese Engineering to the west. Site G is located adjacent and to the west of Site H and diagonally and to the southwest of Site I. These dumps had a common owner, Leo Sauget, and apparently his land filling operations were open to all of the Sauget industries. Chronologically, Mr. Sauget's land filling operation started with Sites I and H (**1931-1957**) and ended at Site G (1952-1966 [although intermittent dumping occurred until 19**86, when the site was fenced**]). Historical aerial photos show that waste land filling activities at sites H. I and G occurred concurrently during the period from 1952 to

1957. Thus, even though these sites carry different designations, it is not inaccurate to characterize the three sites as part of one large long-standing land filling operation **owned and** operated by Mr. Leo Sauget. The Sites carry different **letter** designations because of the artificial and natural boundaries which lie between them (Sites I and H: Queeny Avenue; Sites H and G: Dead Creek), **not because they are distinct landfills with substantial distinguishing characteristics.**

Prior to the removal action conducted by EPA in 1995, Site G consisted of scattered corroded drums with some cinder/fly ash cover material with two pits filled with oily tar-like waste in the northeast portion of the site. Boring logs from site G reveal 3 to 12 feet of fill material overlying 15 to 25 feet of waste. (See Attachment F, EPA Removal Action Report) The maximum depth of waste was noted at 36 feet. Based on the depths and thickness of the waste along with horizontal distances between borings, a total volume of approximately 60,000 cubic yards of waste and contaminated fill is estimated to be present in the subsurface at site G.

The primary drinking water source for nearby residences is from a water intake along the Mississippi River at River mile 181, approximately 3 miles north (upstream) of the Sauget Area sites. Although the majority of residents in the area utilize public water supplies for drinking water, many residents to the south of the Sauget/Cahokia area rely on private well supplies. A review of Illinois Department Public Health files indicated that at least 50 homes in the general area have active wells that are used for drinking water and/or irrigation of gardens.

Two separate rural areas, near East Carondolet and Schmids Lake, rely entirely on groundwater supplies for drinking water. Both areas are located outside of the distribution areas for public water supply systems.

The nearest private well used for drinking water is located approximately 1/4-mile south of Site L, at 102 Judith Lane. Although this well is mainly used to water a garden, one of the owners often drinks the water from the well.

Based on available information, other than the use of private wells for watering gardens, irrigational use of groundwater is limited to three wells in the Schmids Lake - East Carondolet area. Approximately 400 acres of farmland are irrigated by these wells. Additionally, over 8 industrial wells are located within a 3-mile radius.

The land **immediately** surrounding the Site is used primarily for industrial purposes. Commercial activities are located northeast of the Site. Cerro Copper and Monsanto are located directly north of the site. The **small** residential area is approximately **600 feet west of the site, and a larger residential area is located about** .5 miles southeast from the Site adjacent to the downstream segments of Dead Creek. **The small residential area contains 3 homes.** In the **larger** area there are approximately one hundred homes, fifty of which border Dead Creek. The total population of the **larger** area **is estimated to be four hundred.**

According to aerial photographs of the area, initial activities at Site G in particular were noticed in 1952. **By** the

late 1970s, **there is no longer evidence of organized systematic** disposal activities. **It is thought that organized landfilling operations at site G ended at the time of Leo Saget's sale of the Property to Harold Weise in 1966, with intermittant "midnight" dumping by unknown parties occurring thereafter until the fencing of the property.**

A number of investigations have taken place at Site G. In October of 1984, the Illinois Environmental Protection Agency (IEPA) conducted inspections to determine the scope of proposed cleanup work at the Site. Analytical results of samples taken from the subsurface soil samples on-site revealed a variety of organic compounds. Ecology & Environment, Inc.(E&E), under an IEPA contract, conducted an Expanded Site Investigation of the **Sauget Area** sites from 1985 to 1987. **Note that this investigation documented the condition of the site prior to EPA's removal action.** Results from the investigation concerning site G are summarized below.

A magnetometry survey at Site G showed that major magnetic anomalies covered most of the site north of the ridge located near the southern boundary of the site, indicating that ferrous metal objects may be buried throughout the disposal pit. Numerous open and decayed drums were observed along the east, south, and west borders of the site.

The majority of waste material at Site G is presently below the water table, which averages 11 feet below ground surface. Waste materials were also found at the surface, particularly in

the eastern half of the site, where two oily tar disposal areas were located.

Analysis of surface soil samples from Site G indicated surficial contamination across most of the site. Of the 43 samples submitted for analysis, only one sample showed no detected concentrations of organic contaminants. The remaining samples contained total organic concentrations ranging from 0.2 mg/kg to over 74,000 mg/kg. All surface soil samples were collected from the surface to a depth of 6 inches.

Twelve volatile organic compounds were detected in surface soil samples from Site G. The most frequently detected volatile organic contaminants were toluene, chlorobenzene tetrachloroethene, benzene, ethylbenzene, and xylene.

Semivolatile organics were detected in 33 of the 43 surface soil samples from Site G. The highest concentrations of semivolatiles included 22,000 mg/kg of 1,4-dechlorobenzene and 21,000 mg/kg of pentachlorophenol. Pentachlorophenol was detected in 14 samples, benzo(a)pyrene was detected in 13 samples, and pyrene was detected in 12 samples. The highest concentration of benzo(a)pyrene was 22 mg/kg.

Analysis of the 43 surface soil samples from Site G revealed the presence of PCBs in 40 samples, and the pesticide degradation product 4,4'-DDE in five samples. Three PCB congeners were detected in the samples, including Aroclor 1248, Aroclor 1254, and Aroclor 1260. Six surface soil samples contained PCB concentrations greater than 1,000 mg/kg. The highest PCB concentrations contained 24,000 mg/kg of Aroclor 1248, 29,000 mg/kg of Aroclor 1254, and 21,000 mg/kg of Aroclor 1260. Of the

five samples in which 4,4'-DDE was detected, the highest concentration was 0.29 mg/kg. Octachlorodibenzo(b,e)dioxin (OCDD) was detected in three samples, with a maximum concentration of 130 mg/kg detected.

No 2,3,7,8-TCDD was detected in two composite surface soil samples from Site G **prior to EPA's removal action. High levels of dioxins were, however, found pursuant to sampling during EPA's removal action after the site fires were put out. It is suspected that high levels of dioxin were primarily created by the PCB combustion at the site. One area off the site, however, contained high levels of dioxin in an area not burned, indicating dioxin may have been dumped on to the site as well.**

Analysis of the 43 surface soil samples from Site G revealed elevated levels of antimony, arsenic, barium, cadmium, chromium, cobalt, copper, lead, mercury, nickel, silver, vanadium, zinc, and cyanide. Cyanide was detected in 18 samples, with a high concentration of 22 mg/kg. Mercury was detected in 38 samples, with a high concentration of **22** mg/kg.

Analysis of the 12 subsurface soil samples from nine borings at Site G revealed the presence of organic and inorganic contaminants in 11 samples. These results show subsurface contamination across the entire site to a depth of a least **36** feet. Waste material was seen in borings at depths ranging from approximately 5 feet to **36** feet. Analysis of three samples collected from the waste material showed high levels of organic contaminants. The most frequently detected organics were chlorobenzene (9 samples), tetrachloroethene (8 samples), benzene

(7 samples), naphthalene (7 samples), and Aroclor 1260 (6 samples).

Total organic concentrations in subsurface soils ranged from 0 to 10,000 mg/kg, located in the east-central portion of the site. The highest concentrations of contaminants detected were 540 mg/kg of chlorobenzene, 5,400 mg/kg of napthalene, 4,800 mg/kg of pentachlorophenol, and 4,400 mg/kg of Aroclor 1260. A total organic concentration of 970 mg/kg was detected in a sample from a depth of 35 to 40 feet. This sample consisted of visibly stained sand below waste material. A sample collected at a depth of 20 to 30 feet also consisted of stained sand below waste material. This sample had a total organic **contaminant** concentration of 1,500 mg/kg. The most highly contaminated samples had total organic **contaminant** concentrations of 10,000 mg/kg and 2,400 mg/kg. Both of these samples consisted of waste material and soil from a depth of 10 to 25 feet (see Attachment G, Site G Sample Results).

As a result of the high levels of contamination found on the surface at Site G, and at EPA request, Monsanto, Cerro Copper, and Weise Engineering contributed money towards the construction of a chain-link fence around the site in order to restrict access to the general public. The construction was done under the oversight of U.S. EPA in 1988.

As indicated, the fires occurring on the site in 1994 renewed interest in conducting additional removal actions at site G. EPA, Region 5, approved the fund lead removal based on a lack of documentary evidence of PRP liability at the site. The removal action completed by Region 5 mitigated threats posed by

the presence of hazardous material on site by removal/consolidation of all surface vegetation and debris; solidifying oils and liquid wastes, stockpiling and sampling of soils adjacent to the site and surrounding the exposed and buried drums on site; consolidation of all contaminated drums, solid waste, soils (including PCB and dioxin contaminated soils from outside of the site fence-line), and non-hazardous materials; backfilling and covering excavated area with appropriate material, and covering the area with an appropriate temporary soil cap. The removal action was completed on August 7, 1995, when the site equipment and personnel were demobilized (see Attachment H, POLREP #15).

This referral seeks to recover the costs incurred by the Agency from the responsible parties connected to the Site. The Agency's costs for the 1995 Removal are approximately _____. (See Attachment I, Itemized Cost Summary)

5.0 STATUS OF CLEANUP PROCESS

At Site G, EPA excavated and consolidated about 15,000 yards of on-site contaminated soil; consolidated contaminated soil from nearby Wiese Engineering parking lot, Hankins property, and Queeny Avenue on top of the landfill; covered the excavated areas with 18 to 24 inches of clean soil; seeded the area to restore the vegetative cover and control erosion; and stabilized and solidified 1,200 yards of oil pit material to prevent future movement off-site and to provide a firm base for the landfill cover. Finally, the fence was repaired were necessary to restrict access. No further spontaneous combustion of site wastes has been reported.

The Sauget Area 1 sites are currently proposed for listing on the National Priorities List (NPL). Currently, EPA Headquarters is responding to comments received on the notice of the proposed listing and the Sauget Area 1 sites are not yet listed on the NPL. Concurrently, IEPA is negotiating with Solutia (Monsanto spin-off corporation **which acquired Monsanto's chemical production business**) on **RI/FS** options for Dead Creek and Area 1 sites. EPA **has** recommended a negotiation deadline of June 30, 1998 for this effort. After that date, EPA plans to take over enforcement lead for Dead Creek and the Sauget Area 1 sites.

6.0 NATURAL RESOURCE DAMAGE CLAIM

No natural resource damage claims have been identified to date. U.S. EPA is in the process of issuing a notification letter to the Trustees for the site.

7.0 PRIMA FACIE CASE, LIABILITY, AND DESCRIPTION OF DEFENDANTS

7.1 Prima Facie Case

In order to establish a prima facie case for liability in a cost recovery action, the following elements must be established:

1. A release or threatened release...
2. Of a hazardous substance...
3. From a Facility...
4. Defendants are responsible parties under § 107;
5. The release caused the Agency to incur response costs.

7.2 Release or Threatened Release

CERCLA § 101(22) defines "release" as follows: any spilling, leaking, pumping, pouring, emitting, emptying,

discharging, injecting, escaping, leaching, dumping, or disposing into the environment.

Releases of hazardous substances have occurred at the Site due to chemicals leaking, spilling, escaping and leaching from drums disposed of at the facility. As described in section 4.0 History of the Site, contamination of both the soil and sediment at the Site has been extensively documented. This constitutes a release or substantial threat of release into the environment pursuant to Section 104 of CERCLA. 42 U.S.C. §9604(a)(1).

7.3 Of a Hazardous Substance

Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), describes "hazardous substances" as any element, compound, mixture, solution, or substance designated pursuant to § 102 of CERCLA and various provisions of other laws. The substances detected at the Site, namely PCBs, dioxins, benzenes, **chlorobenzenes, chlorophenols, and chloroanilines** and a host of other materials, are listed as hazardous substances in 40 C.F.R. § 302.4.

7.4 From a Facility

Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), defines "Facility" as any building, site, or area where hazardous substances are deposited, stored, placed or otherwise come to be located. The Site is clearly a Facility since hazardous substances have been deposited at the Site.

7.5 Defendants are Responsible Parties

Section 107(a) of CERCLA, 42 U.S.C. §9607(a), defines four classes of liable parties, including the owners and operators of a facility, past owners and operators at the time of disposal (See Attachment J, Title Search), generators of hazardous

substances released at the site, and transporters of hazardous substances to the site. The proposed defendants are liable as owners/operators, generators, and transporters. The liability of the proposed defendants is discussed below.

A. Current/Past Owners

1. Cerro Copper Products Company, Post Office Box 66800, St. Louis, MO 63104; facility address: **3000 Mississippi Ave.,** Sauget, IL 62206.

Cerro has owned a portion the Site since 1957. Cerro Copper was mailed a general notice of potential liability letter from EPA on December 20, 1994 (see Attachment K).

2. Harold Wiese, 1445 Woodson Rd., St. Louis, MO 63132.

Mr. Weise has been an owner of the Site since 1966. Weise Engineering, Inc. was mailed a general notice of potential liability letter from EPA on December 2, 1994 (see Attachment L).

3. Moto, Inc., 721 W. Main Street, P.O. Box 122, Belleville, IL 62202. Facility Address: 3120 Mississippi Ave, **Sauget,** IL 62206.

Moto has been owner of the Site since 1954. **Region 5 is currently checking into rumors that Moto, Inc. recently sold this parcel to another party.** Moto was mailed a general notice of potential liability letter from EPA on December 20, 1994 (see Attachment M).

4. Myrtle and Emily Hankins, 3110 Mississippi Avenue, Sauget, IL 62202.

Since 1960, the Hankins sisters have been owners of the Site. The Hankins sisters were not mailed general notices of potential liability because of their status as judgment proof and innocent landowners.

B. Operators

1. Sauget & Company/Industrial Salvage **& Disposal, Inc.,** 2700 Monsanto Avenue, Sauget, Illinois 62206

Sauget & Company and its predecesor corporation Industrial Salvage & Disposal are potentially liable as operators of Site G. 42 U.S.C. §9607(a)(2). Paul Sauget, past owner President of Sauget and Company, received a general notice of potential liability letter on December 20, 1994 by virtue of his capacity as co-director of both of the above companies. The companies were not sent specific notices **due to lack of evidence of liability and because both were dissolved years ago.**

In Paul Sauget's 1994 response to EPA's Section 104(e) information request, Mr. Sauget states the predecessor to Sauget and Company, Industrial Salvage & Disposal, Inc., was incorporated on November 5, 1959. (See Attachment O, Paul Sauget 1994 Response). Industrial Salvage & Disposal, Inc. changed its name to Sauget & Company on March 25, 1965. **As indicated by the Industrial Salvage and Sauget & Company Articles of Incorporation,** Mr. Paul Sauget **was a member of the Board of Directors of both companies from the very beginning (See Attachment __). Later he** was a shareholder in Sauget & Company, as well as, ultimately, its President. Eventually, after the death of his father Leo in 1968, Paul Sauget oversaw all the operations of Sauget and Company. Sauget and Company was

involuntarily dissolved in 1973 as a Delaware corporation and all remaining assets were distributed to MTS Inc. A Dun & Bradstreet search revealed that MTS Inc. was no longer active as of July 1996. No further information has been located on this business.

Paul Sauget admits that he drove trucks for Industrial Salvage and at some time became the Company's secretary. In his response to EPA's information request, Paul Sauget states that it is his recollection that Sauget and Company was not involved in any waste disposal activities in Site G. **However, a local resident claims that Industrial Salvage and Disposal, Inc./Sauget & Company did most of the hauling of Monsanto wastes for dumping onto Site G. (See Section __).** Finally, with regard to another Sauget site, site Q, a site into which the company admits dumping, Mr. Sauget denied knowledge of what his company was hauling:

> ▒Sauget and Co. does not have knowledge as to whether the waste used, purchased, stored, treated, disposed, transported or otherwise handled at or to the Site constituted hazardous substances or materials. Generally, the type of waste accepted was paper, wood, general rubbish, food wastes, construction waste (e.g. concrete, brick and wood). At times, drums or containers of waste were accepted, but as there were no manifesting requirements applicable at the time to designate wastes as either non-hazardous or hazardous and no tests were performed on the waste which was accepted, Sauget and Co. does not know whether any of the particular wastes accepted at the Site would be deemed `hazardous substances or materials'. . .▒

(See Attachment __, 1995 Response 2).

Compare this statement, however, with the corporate charter of Industrial Salvage and Sauget and Company, which states the purpose of the corporations:

"To process, accumulate, treat, remove, haul and dispose of chemical waste materials..... and "to make use of landfill and other inhibitors to restrict the seepage of such chemical waste prodect to areas of processing...." and "to purchase, sell, acquire, own, develop, treat and dispose of all chemical and industrial waste products...." See Attachment

2. Paul Sauget 2700 Monsanto Avenue
Sauget, Illinois 62206

Based on the above section, Paul Sauget is also individually liable as an operator at the Site. 42 U.S.C. §9607(a)(2). Sauget received a general notice of liability letter for Site G on December 20, 1994 (see Attachment__).

In the 8th Circuit's Control Data Corp. v. S.C.S.C. Corp. decision, the Court explained that an individual is liable as an operator, "not merely because of his position as a corporate officer, but because of his control of the operations. . ." Control Data Corp. v. S.C.S.C. Corp., 53 F.3d at 937. The majority of courts today follow similar reasoning. (See Sidney S. Arst Co., v. Pipefitters Welfare Educ. Fund, 25 F.3d 417 (7th Cir. 1994); Pape v. Great Lakes Chemical Co., 1993 U.S. Dist. LEXIS 14674 (Northern District of Illinois); U.S. v. Northeastern Pharmaceutical & Chemical Co., Inc., 810 F.2d 726 (8th Cir. 1986)).

Paul Sauget is personally liable where he managed and oversaw the hauling and land filling operation of this closely held corporation. According to the time frames herein Paul Sauget was both secretary **and a co-director (with Leo Sauget)** of Industrial Salvage and Disposal, Inc., and President of Sauget and Company during times of disposal and operation at Site G. Site G was owned by Mr. Leo Sauget at the time, but was being used as an asset of the corporation.

C. Generators.

1. Monsanto Chemical Company 800 North Lindbergh Avenue St. Louis, Missouri 63167 Attn: D. Michael Light **(Now Solutia, Inc., 10300 Olive Blvd., P.O. Box 66760 St. Louis, MO 63166, by virtue of its purchase of Monsanto's chemical production business and agreement to indemnify Monsanto of all environmental liability).**

Monsanto is liable as a generator of hazardous waste disposed of at the Site. 42 U.S.C. § 9607(a)(3). Monsanto was mailed a general notice of potential liability letter from EPA on December 20, 1994 (see Attachment).

Monsanto is a Delaware Corporation, whose business included the manufacturing of chemicals. While Monsanto neither admitted nor denied liability at Site G, it stated in its 104(e) response (See Attachment ___), ▒the overwhelming majority of PCBs were produced and sold in the USA by Monsanto.▒ (See Attachment ___, 104 (e) Response #30).

Site G is located directly adjacent to Sites I and H. These landfills are both immediately southwest of the Krummrich

facility and are located on Falling Springs Road. It will be difficult for Monsanto to deny that it was referring to Sites I and H in its CERCLA Section 103(c) Notice of Hazardous Waste Site. In this Notice, Monsanto admits dumping at the ▒Sauget (Monsanto), Illinois Landfill▒ located on ▒Falling Springs Road,▒ ▒organics▒, ▒chemical▒ and ▒unknown▒ wastes between approximately ▒unknown to 1957", a time frame which intersects a known period of operation of the Sites H, I and G.. (See Attachment__, Monsanto 103(c) notice). Sampling results for the three sites show an obvious similarity of the wastes which have been found to be present in both and/or Sites G and H and/or I. This match of landfill waste contents between Sites G, H and I argues that Monsanto's Section 103(c) Notice of Hazardous Waste Site also applies to Site G dumping.

By the same reasoning, the fact that Site R **("Sauget toxic Dump")** contains wastes so similar to those found in site G also indicates Monsanto is responsible for site G wastes, since Monsanto admits in another Section 103(c) Notice its responsibility for Site R Wastes, (see attachment____, Site R Section 103(c) Notice.

More telling, however, is the type of the wastes which have been found to be present in both and/or Sites G and H and/or I. These sites all contain high subsurface levels of the following wastes that are strongly linked to Monsanto operations: benzene, chlorobenzene, **chloroaniline,** toluene, 2,4-dichlorophenol, 2,4,6-

trichlorophenol, pentachlorophenol, naphthalene, polycyclic aromatics, and, of course, PCBs (see Attachment___, Table of Waste Concentrations in Sauget Sites). All of these chemicals wer produced by Monsanto during the period of operation of site G, and a few are considered intermediaries, e.g., chemical which were not sold to other businesses but rather were used only in internal Monsanto production processes. Specific examples of Monsnato imtermediary chemical are the chlorobenzens, chlorophenols, and chloroanilines.

Furthermore, when EPA conducted its removal action at site G, a long list of physical evidence was observed, photographed and stored on the site which implicates Monsanto and others. For example, the following items were dug up and observed by the on scene coordinator which can be tied or potentially tied to Monsanto:

1. Approximately 25 empty 50 lb bags of ▒Monsanto Penta▒ with the active ingredients; 84% Pentachlorophenol, 12% Other Chlorophenols, 4% inert ingredients. Product is used for preservation of wood against decay and insects. Product made by Monsanto Chemical Company, Organic Chemical Division, St. Louis, Mo.

2. Approximately 57 label stencils: Aroclor 1248, Aroclor 1260, Aroclor 1254, Dykanol-A; Glycidal Phenyl Ether, Phenyl Chlori..., Nerteen PPO, Aroclor 1262, Low Temp Element Part A, Tritetrachlorbenzene, Check for Water, ..ontar No. 3, Swan Hatley Mosbacker, PPO Dept. 246, Pyranol 1470, PCB Dept. 243 only, Trichlorobenzene, PCB.

3. Receiving Reports for Monsanto Chemical Company (the ▒received from▒ portions were filled in on some).

4. Operations Manual for ▒Monsanto Chemical Company, Organic Chemical Division, W.G. Krummrich Plant.

5. Steel Barrel Company receipts for the shipment of empty drums to Monsanto Chemical Company.

6. Mulligan Printing receipt, to Monsanto, 12,000 labels, ▒100 lb Monsanto Penta▒.

7. American Chemical Society letter to Monsanto Chemical Company, ATTN Joyce Saebens.

8. Letter from J.H. Huber, Instrument Engineering Company, to Monsanto Chemical Company, Joyce Saebens, Purchasing Dept.

9. Outbound freight receipts from Monsanto Chemical Company; Shipped Sulphuric Acid, Santolube, Muriatic Acid, Phosphorous Trichloride, Salt Cake, Santosite, Tetracyclohexylamine, Santomerse No. 1 flake, Phenol usd, many more not recorded here.

10. Various laboratory glassware with Monsanto labels.

Finally, in addition to having similar contaminants, sites G, H and R have another common characteristic. All were owned or operated by Sauget and Company. (See Section 4.0 and 7.5 of this referral). Additionally, Sauget and Company was one of the principal haulers for Monsanto during its operation of these landfills. In Paul Sauget's answer to EPA's 104(e) Request for Information, Mr. Sauget states that: ▒With respect to Monsanto Company, on information and belief, I believe that certain metal wastes, scrap wood, iron, and other solid and liquid wastes were disposed of at these sites▒ (G, H, and I).

2. Mobil Oil Corporation, 150 East 42nd Street, New York, New York 10017

Many of the wastes found at Site G are indicative of a Refining operation. The following substances were found in Site G and are wastes common to refinery operations:

[HELP]

Mobil Oil operated the only refining operation in the Sauget area during the time frame of operation of Site G. Also, like Monsanto, physical evidence was found and documented by the OSC which indicates that Mobil dumped wastes in Site G. Examples of these items are as follows:

1. Socony Mobil Oil Company, E. St. Louis; light ends analysis forms, majority are filled out with analytical results.

2. Forms from: Vacuum Oil Company Inc., Lubrite Division, a subsidiary of Mobil Oil.

3. Three empty 100-lb bags labeled NALCO, National Aluminate Corporation, Chicago. Reverse side had ▒Shipped To: Socony Mobil Oil Company▒

4. Socony Mobil Oil Company Receipts.

5. **Drums found with the above correspondence, e.g. in the same area) containing oil and other refinery wastes(???).**

Finally, in Paul Sauget's answer to the 104(e) Information Request, he states: ▒with respect to the Mobil Oil Company, on information and belief, I believe that certain sludges and **beads** from the filtering operation, were disposed of at one or more of these sites (Sites G, H, I).

D. Transporters

1. **Industrial Waste Salvage and Disposal, Inc./Sauget and Company, 2700 Monsanto Avenue,**

Sauget, Illinois 62206.

EPA has in its posession hauling contracts and receipts between Sauget and Company and Monsanto dating back to 1962, a period of during which site G was in operation (see Attachment ___). The presence of Monsanto waste in site G, as well as Sauget's ownership and operatorship of the landfill, strongly implies that Sauget transported Monsanto waste to Site G. In addition to this circumstantial case, a local resident, in a discussion with Paul Takacs of IEPA, confirmed the fact that Sauget and company hauled for Monsanto.

ADD DETAILS

7.6 Not Inconsistent with the N.C.P.

In the Action Memorandum dated September 26, 1994, the On-Scene Coordinator detailed how response activities at the Site are both cost effective and not inconsistent with the N.C.P. See 40 C.F.R. Parts 300.400-300.440 (Subpart E); Action Memorandum, Attachment __.

8.0 ENFORCEMENT HISTORY

On December 20, 1994, U.S. EPA sent general notice letters to Paul Sauget, Monsanto, Cerro Copper, Weise Engineering, Inc., and Moto, Inc (See Attachment ___). Additionally, on July 13,

1994, EPA sent information requests to Monsanto and Cerro. Later, on September 21, 1994, EPA sent information requests to the Village of Sauget and Cahokia, Paul Sauget, Weise Engineering, Raun Transport and Rogers Cartage. Follow-up requests were sent after the Sites G and Q removals were completed, to Monsanto, Mobil Oil, Paul Sauget, Ethyl Petroleum, Big River Zinc, Sterling Steel, Amax Zinc, Midwest Rubber, Superior Equipment Company, and Clayton Chemical Company.

9.0 COST RECOVERY

9.1 Cost Summary

EPA has incurred $ _____ in response costs at the Site as of December, 1997. Attachment __ is an itemized cost summary (ICS) of these costs. The ICS includes a breakdown of U.S. EPA's payroll and travel costs, contractor costs as well as a calculation of indirect costs and interest. A complete cost documentation package is being prepared and will be ready by the time discovery is scheduled.

9.2 Projected Future Costs

There are no projected future costs.

9.3 Potential Problems With Costs

There are no foreseeable problems with U.S. EPA's costs.

10.0 INJUNCTIVE RELIEF

There is no need to seek any injunctive relief in this matter.

11.0 OTHER LEGAL ISSUES

11.1 Potential Defenses

A. Statute of Limitations

One issue that needs to be highlighted is the running of the three year statute of limitation for recovery of costs under CERCLA. The three-year statute begins to run at completion of the removal action. 42 U.S.C. §113(g)(2)(A). In this case the physical removal was completed on or about August 7, 1995. (See Attachment __, POLREP #15). If the three-year statutory period on past costs began to run from completion of the on-site physical removal activities, then the United States' cause of action for those costs associated with that physical removal will expire on August 7, 1998.

B. Hazardous Substances

The second troublesome aspect of this case is the lack of records documenting what generator/transporter wastes were accepted at Site G. Thus, particularly Monsanto and Paul Sauget, can be expected to argue, as indeed they did in their responses to U.S. EPA's information request, that only non-hazardous waste went from its facilities to Site G.

However, largely on a theory of elimination and on the weight of substantial circumstantial evidence, EPA believes that Monsanto and Paul Sauget is responsible for the generation, transport and/or disposal of hazardous substances, specifically

chlorobenzenes, chloroaniline and chlorophenols PCBs, at the Site. The evidence proving this may need to be developed more fully prior to litigation through depositions or additional 104(e) requests.

12.0 LITIGATION/SETTLEMENT STRATEGY

A. Discovery

EPA is interested in obtaining more information from Paul Sauget through an administrative deposition. Sauget's deposition would include questions regarding when operations at Site G began and ended, the type of wastes the company handled, its hauling historuy for Monsanto and other companies, as well as details of Paul Sauget's personal involvement in management of Sauget and Company at the Site G landfill operations.

Additionally, witnesses who have made statements regarding certain PRP's liability should be deposed. Thus, the Sauget and Company employees who were interviewed by U.S. EPA's civil investigator (for the site Q case) should be deposed to preserve their testimony as to site G as well.

More information about Mobil's disposal of wastes at Site G is needed. This information can be obtained through deposition of Mobil employees, as well as of employees of Superior Equipment, Mobil Oil's sole outside waste hauler during the period of operation of Site G.

B. Summary Judgment

The United States should be able to establish that Cerro and Harold Weise are the current "owners" of the Site, and that Moto was at least a owner during periods of landfill operation, on summary judgment. The United States should also be able to show that Sauget and Company was the "operator" of the Site. Prior to filing for summary judgment, the Region should take the administrative deposition of Paul Sauget, whose father Leo Sauget began Industrial Disposal and who was later himself President of Sauget & Company.

The United States should also be able to show that Monsanto was a generator of hazardous waste found at the Site. In order to show that Monsanto was a generator at the Site, it will be necessary to show that it disposed of chlorobenzenes, chlorophenols, and chloroanilines and PCBs or wastes containing PCBs at the Site, for purposes of CERCLA liability. Prior to filing for summary judgment, the Region should take the administrative depositions of the persons familiar with Monsanto's apst production processes and its disposal activities at Site G.

13.0 OTHER IMMINENT HAZARD PROVISIONS

None involved.

14.0 WITNESSES/LITIGATION SUPPORT

14.1 Witnesses

Mr. Samuel Borries is the current OSC and will be able to testify as to the need for the response at the site and with respect to the extent of the contamination emanating from the site. Mr. Borries can also authenticate the photos taken of the physical evidence found on-site.

An individual from the Superfund Accounting division will be needed to testify with respect to the cost documentation for the Site.

Mr. Paul Tackas, IEPA, can testify as to the nature and characteristics of the waste found at Site G. Mr. Tackas can also link the wastes found at the site to the Monsanto production process (particularly the chlorobenezens, chlorophenols, and chloroanilines, and PCBs).

15.0 CIVIL JUSTICE REFORM EXECUTIVE ORDER

15.1 Notice and Pre-filing Negotiations

EPA has not yet sent a demand letter for EPA's past costs to the PRPs and has not started negotiations with them for its costs.

15.2 Regional Settlement Posture

EPA may be willing to settle this matter for an amount lesser that the _____ to avoid the cost of protracted litigation. Factors the Region would consider in reducing the amount include: the PRPs ability to pay, as well as, any additional evidence PRPs may reveal effecting their liability at Site G.

15.3 ADR Consideration

Neither U.S. EPA nor any of the proposed defendants have proposed any ADR techniques to attempt to resolve this matter. The Region believes such tools would foster a settlement of this case if allocation of liability is put at issue.

15.4 Core Information

This case involves an administrative record which is located in the Region 5 Records Center on the seventh floor of the Ralph Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago. The index to the administrative record is included at Attachment___ .

LIST OF ATTACHMENTS

A.

B.

C.

D.

E.

F.

G.

H.

I.

J.

K.

L.

M.

N.

O.

P.

Q.

R.

S.

T.

U.

V.

W.

X.

Y.

Z.

AA.

ATTACHMENT

LIST OF PROPOSED DEFENDANTS

1. Monsanto Chemical Co.
   800 North Lindbergh Avenue
   St. Louis, Missouri 63167
   Attn: D. Michael Light

2. Solutia Inc.
   10300 Olive Blvd.
   P.O. Box 66760
   St. Louis, MO 63166

3. Industrial Salvage and Disposal C./Sauget & Co.
   2700 Monsanto Avenue
   Sauget, Illinois 62206

4. Paul Sauget
   2700 Monsanto Avenue
   Sauget, Illinois 62206

5. Mobil Oil Corporation
   150 East 42nd Street
   New York, New York 10017

6. Cerro Copper Products Company
   P.O. Box 66800
   St. Louis, MO 63104

   Facility:
   3000 Mississippi Ave.
   Sauget, IL 62206

7. Harold Weise
   1445 Woodson Road
   St. Louis, MO 63132